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14 Attorneys for Defendants LIFEGUARD MEDICAL SOLUTIONS, LLC

11 **UNITED STATES DISTRICT COURT**
12 **SOUTHERN DISTRICT OF CALIFORNIA**

13 EXPRESS COMPANIES, Inc., dba
14 AMERICAN EHS / AMERICAN CPR, dba
15 FIRST-AID-PRODUCT.COM,
16 AEDGRANT.COM,

17 Plaintiff,

18 v.

19 LIFEGUARD MEDICAL SOLUTIONS,
20 LLC., dba LIFEGUARDMED.COM,
21 AEDSUPPLYSTORE.COM,

22 Defendants.

CASE NO: 10 CV 0178 WQH WMc

RULE 26(f) JOINT DISCOVERY PLAN

Judge: Magistrate William McCurine Jr.
Place: 940 Front St., San Diego CA 92101

Telephonic Case Management Conference:
February 2, 2011 – 4:30 p.m.

I. DISCOVERY PLAN AND DEADLINES

1. Pursuant to Fed.R.Civ.P. 26(f), a telephonic meeting was held on December 20, 2010, and was attended by:

T.C. Johnston, Esq., for plaintiff EXPRESS COMPANIES, Inc., dba AMERICAN EHS / AMERICAN CPR, dba FIRST-AID-PRODUCT.COM, AEDGRANT.COM.

Mathieu G. Blackston, Esq. for defendants LIFEGUARD MEDICAL SOLUTIONS, LLC., dba LIFEGUARDMED.COM, AEDSUPPLYSTORE.COM.

2. **Pre-Discovery Disclosures.** The parties will exchange by January 21, 2011, the information required by Fed.R.Civ.P. 26(a)(1), subject to a mutual stipulated protective order which the parties have agreed to enter into.

3. **Discovery Plan.** The parties jointly propose to the court the following discovery plan:

Discovery will be needed on the following subjects: Information and documentation regarding business marketing, promotion, and sales of each party; communications with customers and other outside parties; contractual agreements between the parties and third parties as relevant, copyrights, and other information related to this action.

All discovery commenced in time to be completed by October 1, 2011.

The Federal Rules limit interrogatories by each party to any other party to 25 with subparts. The parties have agreed to stipulate to reasonable additional interrogatories should they be warranted.

The Federal Rules limit requests for admission by each party to any other party to 25. The parties have agreed to stipulate to reasonable additional requests for admission should they be warranted.

The Federal Rules limit 10 depositions by plaintiff(s) and 10 by defendant(s). The parties have agreed to stipulate to reasonable additional depositions should they be warranted. Each deposition limited to maximum of seven (7) hours unless extended by agreement of parties.

Reports from retained experts under Rule 26(a)(2) due: August 1, 2011.

Supplementations under Rule 26(e) due in 90-day intervals from initial date of disclosure.

1 4. **Other Items.**

2 The parties do not request a conference with the court before entry of the scheduling
3 order.

4 The parties request a pretrial conference in October of 2011.

5 Plaintiff(s) should be allowed until July 1, 2011 to join additional parties and to amend
6 the pleadings.

7 Defendant(s) should be allowed until July 1, 2011 to join additional parties and to amend
8 the pleadings.

9 All potentially dispositive motions should be filed by September 1, 2011.

10 Settlement cannot be evaluated prior to further discovery. Settlement may be enhanced
11 by use of alternative dispute resolution procedures including Settlement Conferences before
12 Magistrate Judge William McCurine, Jr., and other means.

13 Final lists of witnesses and exhibits under Rule 26(a)(3) should be due: October 1, 2011.

14 Parties should have 14 days after service of final lists of witnesses and exhibits to list
15 objections under Rule 26(a)(3).

16 The case should be ready for trial by November 1, 2011. At this time Plaintiff and
17 Defendant estimate this trial will take three to five days.

18 **II. ELECTRONIC DISCOVERY**

19 The parties agree that to the extent another party requests documents or information that
20 is normally maintained in electronic form (e.g., communications in the form of e-mail or
21 electronic files of documents), the responding party will search and produce an electronic file in
22 PDF or other mutually agreeable format; production of electronic documents in their native
23 format is not required as an initial matter. The parties have agreed that subsequent to an initial
24 production the receiving party may make reasonable requests for the production of one or more
25 documents in a native electronic format, and in the event of such a request the parties will
26 cooperate to arrange for acceptable means and timing of such further disclosure. In the event of a
27 dispute regarding electronic discovery matters, the parties agree to meet and confer regarding
28 such matters, with a view towards resolving such matters without involving the Court.

The parties further agree that the production of paper documents will be formatted as one PDF document with Adobe electronic bookmarks or as separate individual PDF files unitized on a document level so that hyperlinks contained within the PDF document can be used to jump to specific pages. Under no circumstances, shall image files be produced, whether converted ESI or imaged paper documents, as single page image files unless accompanied with an appropriate image load file in a format agreed upon by the parties. All productions will be produced on an appropriate electronic media and will contain the load files as requested by the receiving party. Plaintiff will bates stamp all produced documents sequentially beginning with EXP1. Defendant will bates stamp all produced documents sequentially beginning with LMS1.

III. WITNESSES FOR PLAINTIFF

(Who Are Likely to Have Discoverable Information)

SUBJECTS OF INFORMATION. As to all witnesses: Information regarding communications by, with, and among parties in relation to this action including third parties such as Philips, customers of Express, and Lifeguard Medical, as related to this action.

INDIVIDUAL WITNESSES.

Harvard Reynolds - Lifeguard Medical Solutions, LLC

Chet Frist – Lifeguard Medical Solutions, LLC

Shirley Cantrell – Lifeguard Medical Solutions, LLC

Matthew Henry – Express Companies, Inc. 760-944-1048

Chad Balash – Express Companies, Inc. 760-944-1048

Terri Arrington – Express Companies, Inc. 760-944-1048

Gloria Bartlett – Express Companies, Inc. 760-944-1048

Joany Smith – formerly of Express Companies, Inc. 404-276-1854

Jessica Dennis Macintosh – formerly of Express Companies, Inc. 760-672-1838

Tawnya Lindsay - formerly of Express Companies, Inc. 760-944-1048

Thea Zahner - formerly of Express Companies, Inc. 760-944-1048

Mark Johnson - Philips

Tom Doyle - Philips (619) 694-9297

1 Princess Umbao - Philips

2 Phillip Landis - Surgequip Systems

3 Channel Manager for Texas - Philips

4 Philips Medical PMK for Canadian Sales (Name unknown)

5 PMK for NewHouse Medical

6 Lon Rosen - "One Beat" CPR, 3801 S.W. 47th Ave, Suite 505, Fort Lauderdale, FL 33314;
7 954-321-5305; 866-931-2328; onebeatcpr.com

8 Other witnesses may include customers of EXPRESS including the following, as well as
9 others who will be identified if and when their information is located:

10	Alberto Villarreal	Hidalgo	TX	78557
11	Tammy Wahl	Binghamton	NY	13905
12	Valvaneea Harville	Woodland	AL	36280
13	Geoff Pettinger	Pecos	TX	79772
14	Craig	New York	NY	10013
15	Barbara T. Austin	Batavia	NY	14020
16	Greg Dibble	Lacey	WA	98516
17	Karon A. Claussen	Knoxville	TN	37901
18	Shirley Berry	Norwalk	OH	44857
19	Alberto Villarreal	Hidalgo	TX	78557
20	Julie Milner	Andover	MA	1810
21	Jessica McConnell	Fuquay Varina	NC	27526
22	Timothy Janz	Punta Gorda	FL	33950
23	Paul B. Colwell	Kansas City	KS	66106
24	Denise Bursey	Pittsburgh	PA	15213
25	Sam Velez	Little Rock	AR	72211
26	Gina Hindbaugh	Cynthiana	KY	41031
27	Jeffery Turner	Colorado Springs	CO	80922
28	Michele Lind	Ann Arbor	MI	48106

1	S.D. Abington	Abington	PA	19001
2	Cheryll Rittenhouse	Encinitas	CA	92024
3	Daniel Cullen	Lynbrook	NY	11563
4	Joseph Dingman	Barrow	AK	99723
5	Thurnell Outlaw	Washington	DC	20011
6	Eileen Larocca	Kingston	NY	12401
7	Frank Henry	Hamburg	NY	14075
8	John Gisclon	Ashland	OR	97520
9	Sue Wilson	Edmondton	AB	T5J4J5
10	Teresa Muffoletto	Ojo Caliente	NM	87549
11	Ray Claveran	LaGrange	CA	95329
12	Ronald Byrne	Vail	CO	81657
13	Issack Atkins	Nashville	TN	37217
14	Frank Henry	Hamburg	NY	14075
15	David Ybarra	walnut creek	CA	94597
16	B. Leighann	Tampa	FL	33612
17	Jeffrey Slessor	Dearborn Heights	MI	48125
18	MJ Stacks	East Lansing	MI	48823
19	Suzanne Arnold	Everman	TX	76140
20	P. Wiley	Berryville	VA	22611
21	Woody Crawshaw Jr.	Marion	KS	66861-1659
22	Dan Fleury	Santa Barbara	CA	93101
23	Nancy Ory	Arlington	VA	22201
24	Kent Miller	Provo	UT	84604
25	Aubrie West	SLC	UT	84123
26	Ray Claveran	LaGrange	CA	95329
27	Evelyn Ifkovitz	Newtown	PA	18940
28	Tracy Baer	St Charles	IL	60175

1	Marga Morrison	Warren	PA	16365
2	David Beisiegel	Lindon	WA	98264
3	Anne Shaughnessy	Axtell	KS	66403
4	Julie Rother	Wayne	NE	68787
5	Michael Margolis	New York	NY	10021
6	Brian Bluhm	St. Cloud	MN	56303
7	Meredith A. Martin	Forked River	NJ	8731
8	Bart Maybee	Wailuku	HI	96793
9	Mike Riotto	Somerset	NJ	8873
10	Stephanie Bruno	Loganville	GA	30052
11	Gary Lines	Glendale	AZ	85308
12	David Smith	Paducah	KY	42003
13	H. Cellio	Durham	NC	27705
14	Donna Earley	Laramie	WY	82071
15	Mike Juliano	Queensbury	NY	12804
16	David W. Savage	Pullman		99163
17	Mike Juliano	Queensbury	NY	12804
18	Ronald Stauffer	Willow Street	PA	17584
19	Melissa McNeely	Latrobe	PA	15650
20	Cynthia Grenninger	Lock Haven	PA	17745
21	Mike Krager	Arcadia	KS	66711
22	Frank Gonzalez	Mission	TX	78572
23	Alex McCutcheon	Seattle	WA	98125
24	Katie Fine	Robbinsville	NJ	8691
25	Ed Ferrell	Murietta	CA	92562
26	James Wilson	Tulsa	OK	74107
27	Ryan Sumida	Aiea	HI	96701
28	Sheriff Bill Flaten	Granite Falls	MN	56241

1	Lori Manning	Baton Rouge	LA	70818
2	Janet Ramey	Oak Forest	IL	60452
3	Rachel Steele	Vandalia	IL	62471
4	Wayne Richardson	Washington	DC	20006
5	Kent Miller	Provo	UT	84604
6	Mildred Pickman	Boca Raton	FL	33496
7	Harry Colvin	Rural Hall	NC	27045
8	Robin Stevens	Schuyler	NE	68661
9	Michele Neto	Lakewood	NJ	8701
10	Leahnette Rivers	Columbia City	OR	97018
11	Cheryl A. Young	Columbia City	OR	97018
12	Michael L. Reedy	Columbia City	OR	97018
13	Linda Saulsbury	Fremont	CA	94555
14	Tracy Morin	Ft. Collins	CO	80525
15	Matt Rhoades	Idaho Falls	ID	83402
16	Marc Garcia	Ft. Collins	CO	80525
17	Izzi Rodriguez	Post Falls	ID	83835
18	Matt Carleton	Idaho Falls	ID	83402
19	N. Bhagat	Alexandria	VA	22312
20	Marty Smith	APO	AE	9046
21	John Handy	Big Sur	CA	93920
22	Linda Saulsbury	Fremont	CA	94555
23	Russ Engle	Essington	PA	19029
24	Michele Neto	Lakewood	NJ	8701
25	Timothy Moore	Cambridge,	MA	2139
26	Bogdan Nowakowski	Gonzales	LA	70737
27	Jonathan Mittel	East Stroudsburg	PA	18301
28	Donna McCleskey	Wauchula	FL	33873

1	Bill Henderson	Austin	TX	78731
2	Paul Watkins	Archbold	OH	43502
3	Michelle F. Gross	Minneapolis	MN	55405
4	Louis Sims	Yellow Springs	OH	45387-1313
5	Sallie Ziskin	North Branford	CT	6471
6	Sharon Berry	Lenoir	NC	28645
7	James Hill	Clinton	SC	29325
8	Susan Hailey	San Antonio	TX	78228
9	Brian Anderson	Long Lake	MN	55356
10	Andrea Moeller	Terre Haute	IN	47807
11	Clover McDonald	Bronx	NY	10466
12	Scott S. Hobbs	Griffith	IN	46319
13	Gloria Mollet	Sioux City	IA	51101
14	Larry Friedman	Oceanside	NY	11572
15	Robert Wells	Bladensburg	MD	20710
16	Gloria Castro	Miami	FL	33142
17	Natalie Ralphs	Alexandria	VA	22314
18	Kim Osmun	Coeur d Alene	ID	83815
19	Larry Lester	Delvan	WI	53115
20	Anne Schwartzman	Saratoga Springs	NY	12866
21	Joe Shrode	Newburgh	IN	47630
22	Bruce Harding	Alexandria	VA	22315
23	Kimo Toyama	Aiea	HI	96701
24	Heather Hancock	Olympia	WA	98506
25	James Hill	Clinton	SC	29325
26	Karen Ziebell	Sheboygan	WI	53081
27	Karla Curran	North Las Vegas	NV	89084
28	Vicki S. Mossman	Greenley	CO	80639

1	George Cummings	Neptune	NJ	7753
2	Susan Riehnham	White City	OR	97503
3	Linda Meissner	Newton	NH	3858
4	Kathy Amick	Penn Runn	PA	15765
5	Pat Carlson	Rochester	MN	55904
6	Bruce Morris	Prospect Heights	IL	60070
7	Jane Mathisen	Tinton Falls	NJ	7724
8	Ann G. McCormack	Collierville	TN	38017
9	Gail Wilkinson	Carlinville	IL	62626
10	William Hill	Orlando	FL	32804
11	Dawn Brown	Lansing	MI	48917
12	Jody Gallagher	Clay Center	NE	68933
13	Diana Aubuchon	Lenexa	KS	66219
14	Diane Flynn	Katy	TX	77449
15	Anne Novelli	Malvern	PA	19355
16	Brian DeRosier	Oak Park Heights	MN	55082
17	Melanie Cielinski	Glenrock	WY	82637
18	John Moenning	Boca Grande	FL	33921
19	Clova Abrahams	Maplewood	NJ	7040
20	Dee Bartle	Jacksonville	FL	32225
21	Diane Dover	Brooklyn	MI	49230
22	Shawn McClintock	Newton Hamilton	PA	17075
23	Marga Morrison	Warren	PA	16365
24	Olieta Davidson	Greenfield	IL	62044
25	Ken Hopkins	Sultan	WA	98294
26	Gay Pierce	Florence	SC	29501
27	R.W. Schmidt, FC	Rotonda West	FL	33947
28	Gene Reardon	Alken	SC	29803

1	Starla Alexander	Eufaula	AL	36027
2	Mary Delamater	Charlevoix	MI	49720
3	Jacqueline A. Parker	Chevy Chase	MD	20815
4	Sue Bockrath	Lansing	MI	48911
5	Deborah Dunn	Tewksbury	MA	1876
6	Ann Bent	Lake Worth	FL	33461
7	David Behrens	Lanoka Harbor	NJ	8734
8	Laurie Garrison / Betty Surman	Marion	TX	78124
9	Justin Heim	Eagle	WI	53119
10	Robert Fairbairn	Winfield	IL	60190
11	Colleen Gibson	Yuba City	CA	95991
12	Chad W. Hershberger	Mifflinburg	PA	17844
13	Cynthia Johnson	Endwell	NY	13760
14	Joanna Anderson	Bloomington	IN	47401
15	Helen Adewunmi	Raleigh	NC	27609
16	David Thoroughman	Portsmouth	OH	45662
17	Gloria Mollet	Sioux City	IA	51101
18	Peg Fowler	Lamar	CO	81052
19	Gloria Mollet	Sioux City	IA	51101
20	Jennifer Dennis	Tucson	AZ	85712
21	Ben Ablon	Sunrise Beach	TX	78643
22	Donna Morgan	Corona	CA	92879

Additional witnesses may be identified in the future if and when their information is located.

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IV. WITNESSES FOR DEFENDANT

As an initial matter, Defendant objects to Plaintiff's failure to identify the subject matter of witness testimony as required by the Court's December 13, 2010 order. Furthermore the number of witnesses identified by Plaintiff appears to be an attempt at obfuscation given the agreed upon three-to-five day length of trial and the limited issues in dispute. Plaintiff's identification of more than 200 witnesses, without providing any substantive description as to the subject matter of their respective testimony, poses the danger of unnecessarily increasing the costs of litigation as Defendant has no bases upon which to determine whether the third-party witnesses identified by Plaintiff should be deposed or issued written discovery. Defendant therefore requests that the Court order Plaintiff to provide the subject matter of the identified witnesses testimony/information as required by the Court's December 13, 2010 order and by Federal Rule of Civil Procedure Rule 26(a)(1)(A).

Defendant submits the following list of witnesses likely to have discoverable information that Defendant may use to support its claims or defenses. Defendant anticipates that other individuals may also have discoverable information and specifically reserves the right to identify additional witnesses as discovery proceeds. By indicating the general subject matter of information these individuals may possess, Defendant does not intend to limit its right to call any individuals listed to testify concerning other subjects.

<i>Name and Contact Information</i>	<i>Potential Subject Matter of Testimony</i>
Chet Frist Lifeguard Medical Solutions, LLC 821 Fessler's Parkway Nashville, Tennessee 37210 Tel: 615.256.1818	Includes Defendant's operations, customer service, CPR training services, invoicing, and purchase orders, as well as Defendant's business relationship with Prestan Products and Philips Healthcare.
Harvard Reynolds Lifeguard Medical Solutions, LLC 821 Fessler's Parkway Nashville, Tennessee 37210 Tel: 615.256.1818	Includes Defendant's sales and business development, negotiations with Plaintiff, medical direction services, and Defendant's use of E-bay stores.

<i>Name and Contact Information</i>	<i>Potential Subject Matter of Testimony</i>
<p>Shirley Cantrell Lifeguard Medical Solutions, LLC 821 Fesslers Parkway Nashville, Tennessee 37210 Tel: 615.256.1818</p>	<p>Includes Defendant's accounts receivable, billings, and payments received</p>
<p>Chad Breedlove Lifeguard Medical Solutions, LLC 821 Fesslers Parkway Nashville, Tennessee 37210 Tel: 615.256.1818</p>	<p>Includes CPR training provided by Defendant.</p>
<p>Brian Marks Philips Healthcare 325 Beaten Path Rd Mooresville NC 28117 Tel: 704-799-3417</p>	<p>Includes Philips Healthcare's business dealings with Defendant and Plaintiff.</p>
<p>Mark Johnson Philips Healthcare 3750 Brookside Parkway, Suite 250 Alpharetta, GA 30022 Tel: 877-481-8348</p>	<p>Includes Philips Healthcare's business dealings with Defendant and Plaintiff.</p>
<p>Dan Moon Prestan Products 701 Beta Drive, Suite 2 Mayfield Village OH 44134 Tel: 800-434-7989</p>	<p>Includes Prestan Products business dealings with Defendant and Plaintiff.</p>
<p>Jessica McIntosh Couer d' Alene, Idaho</p>	<p>Includes course of business dealings, business negotiations, and agreements between Defendant and Plaintiff, as well as purchase orders sent by Plaintiff to Defendant.</p>
<p>Joany Smith Atlanta, Georgia</p>	<p>Includes course of business dealings between Defendant and Plaintiff, as well as purchase orders sent by Plaintiff to Defendant.</p>
<p>Brandon Taylor CPR Savers and First Aid Supply and formerly of AmericanCPR 7904 E. Chaparral Road Suite A110-242 Scottsdale, Arizona 85250 Tel: 800.480.1277</p>	<p>Includes sale and distributorship of Prestan Product's manikins, the course of business dealings between Plaintiff and Defendant, and Plaintiff's course of business dealings.</p>
<p>Matthew Henry Express Companies, Inc.</p>	<p>Includes course of business dealings, business negotiations, and agreements between Defendant and Plaintiff, payments owed by Plaintiff to Defendant for goods received, as well as purchase orders sent by Plaintiff to Defendant.</p>

<i>Name and Contact Information</i>	<i>Potential Subject Matter of Testimony</i>
Person Most Knowledgeable for One Beat CPR 3801 S.W. 47th Ave, Suite 505 Fort Lauderdale, FL 33314 Tel: 954.321.5305	Includes the circumstances surrounding Plaintiff's allegation that Philips Healthcare instructed One Beat CPR to not ship Philips' products sold by Plaintiff.

Dated: January 14, 2011

/s/ T.C. Johnston

T.C. Johnston, Esq.
 Attorney for plaintiff EXPRESS COMPANIES,
 Inc., dba AMERICAN EHS / AMERICAN CPR,
 dba FIRST-AID-PRODUCT.COM,
 AEDGRANT.COM

Dated: January 18, 2011

/s/ Mathieu G. Blackston

Mathieu G. Blackston, Esq.
 Attorneys for defendants LIFEGUARD MEDICAL
 SOLUTIONS, LLC., dba LIFEGUARDMED.COM,
 AEDSUPPLYSTORE.COM